

Remarks

The present application is subject to a restriction requirement dated June 30, 2005 between Group I, claims 1-12, 59-68, Group II, claims 13-18, 47-54, Group III, claims 19-46 and Group IV, claims 55-58. Applicants provisionally elect Group II with traverse.

The restriction is traversed as being improperly made. Regarding the restriction requirement, the Examiner states that the invention of Group I belongs to class 235/462.15. The class definition for class 235/462.15 is as follows:

- Registers
- Coded Record Sensors
- .Particular Sensor Structure
- ..Optical
- ...Bar Code
-Programming or Computer Interface Feature

The Examiner's postulated classification of Group I claims is improper at least for the reason that while the Examiner characterizes Group I claims as being drawn to "a system for reprogramming an optical reader," class 235/462.15 is defined as being a class for patents having claims directed to bar code reader register having a programming or computer interface feature.

Regarding Group II, the Examiner states that the invention of Group II belongs to class 235/494. The class definition for class 235/594 is as follows:

- Registers
- Records
- ...Particular Code Pattern

The Examiner's postulated classification of Group II claims is improper at least for the reason that while the Examiner characterizes Group II claims as being drawn to a symbol generator/encoder system, class 235/494 is defined as being a class for patents having claims directed to a record having a particular code pattern.

Regarding Group III, the Examiner states that the invention of Group III belongs to class 235/462.25. The class definition for class 235/462.25 is as follows:

- Registers
- Coded Record Sensors
- .Particular Sensor Structure
- ..Optical
- ...Bar Code
-Reader Processing Circuitry

It is noteworthy that the child subclasses of class 235/462.25 are as follows: 462.26 Amplitude Control (*e.g.*, automatic gain control); 462.27 Analog to Square Wave Converter (*e.g.*, digitizer, binarizer, slicer); 462.28 Clock Generating or Sampling Circuit; and 462.29 Noise Reduction Circuit (*e.g.*, electrical filters). The Examiner's postulated classification of Group III claims is improper at least for the reason that while class 235/462.25 is defined as a class for patents having claims directed to optical bar code readers having particular image acquisition processing features, claims of Group III are not directed to a particular image acquisition or processing feature.

Regarding Group IV, the Examiner states that the invention of Group IV belongs to class 235/472.02. The class definition for class 235/472.02 is as follows:

- Registers
- Coded Record Sensors
- .Particular Sensor Structure
- ..Optical
- ...Hand Held
-Wireless Link (*e.g.*, RF, IR, etc.)

The Examiner's postulated classification of Group IV claims is improper at least for the reason that while the Examiner characterizes Group IV claims as being drawn to a system for initiating a communication. Class 235/472.02 is defined as being a class for patents having claims directed to an optical hand held register having a wireless link. Further, Group IV claims fail to recite a device that is hand held.

Examiners must provide reasons and/or examples supporting a restriction requirement. *MPEP* §803. At least because the Examiner has failed to postulate proper classifications of the claims, the restriction requirement should be withdrawn. Further, restriction requirement should be made as early as possible in prosecution. *MPEP* §811. It is believed that an attempt to "cure" the improper restriction requirement after receipt of the present response would not be proper since such an attempt to cure would not have been made at a time "as early as possible" in prosecution.

Further the Examiner has not alleged that a search and examination of the entire application cannot be made without a serious burden. According to *MPEP* §803, if a search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even where it includes claims to independent or distinct inventions. *MPEP* §803. The Examiner has also failed to follow the suggested course of action under *MPEP* §812.01. Under *MPEP* §812.01, the Examiner should telephone the attorney of record and permit the attorney of record to make an oral election. The Examiner made no phone call as is outlined under *MPEP* §812.01 which would have permitted the applicants to make an oral election.

For the above reasons, reconsideration and withdrawal of the restriction requirement is respectfully requested.

Applicants also add claims 69-80 which are more related to Group II claims than claims of the other groups (though the restriction is regarded as improper). New claims 69-80 are believed to be allowable in that they recite combinations of elements not shown, or suggested, in the prior art of record.

Accordingly, in view of the above amendments, applicants believe all of the claims of the present application to be in condition for allowance and respectfully request reconsideration and passage to allowance of the application.

U. S. Patent Application No.: 10/669,894
Amendment Dated September 30, 2005
Reply to Office Action of June 30, 2005


If the Examiner believes that contact with applicants' attorney would be advantageous toward the disposition of this case, the Examiner is herein requested to call applicants' representative at the phone number listed below.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to deposit Account No. 50-0289.

Respectfully submitted,

WALL MARJAMA & BILINSKI LLP

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George S. Blasiak
Registration No. 37,283
WALL MARJAMA & BILINSKI LLP
101 South Salina Street
Suite 400
Syracuse, NY 13202
315-425-9000
315-425-9114 (FAX)

Customer No. 20874

GSB/bs